

DOWD, J.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

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|---------------------------|---|---------------------------|
| Joseph Dominick Chilleme, |) | |
| |) | CASE NO. 5:05 CV 2377 |
| Petitioner-Defendant, |) | CASE NO. 5:04 CR 215 |
| |) | |
| v. |) | <u>MEMORANDUM OPINION</u> |
| |) | |
| United States of America, |) | |
| |) | |
| Respondent-Plaintiff. |) | |
| |) | |

I. Introduction

The Court filed an opinion on May 3, 2006, addressing the claims of the petitioner and ordered the return of the petitioner to the district for an evidentiary hearing. (See Docket No.12 in the habeas case, 5:05 CV 2377.) The petitioner requested the appointment of counsel and the Court appointed the office of the Federal Defender to represent the petitioner at the evidentiary hearing. Assistant Federal Defender Carlos Warner was designated to represent the petitioner.

The evidentiary hearing was conducted on June 7, 2006. The Court had indicated in its ruling of May 3, 2006, that the two issues that would be addressed was (1) whether the petitioner had requested his retained counsel, Gregory Robey, to file a notice of appeal following his sentence and (2) whether the petitioner's retained counsel, prior to the entry of the guilty plea, had assured the petitioner that he would receive admission to a drug program in the penal institution to which he was assigned and receive a reduction in time from his sentence for a successful completion of the program.

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II. The Hearing

At the outset of the hearing, petitioner's counsel indicated to the Court that the petitioner wished to withdraw his petition for habeas relief, but the petitioner appeared reluctant to withdraw his claim that he had requested and Mr. Robey had refused to file a notice of appeal. Consequently, testimony under oath followed from both the petitioner and Mr. Robey.

III. The Court's Ruling

Following the testimony, the court announced his findings as follows: (1) That the petitioner had not requested his retained counsel to file a notice of appeal from the conviction and sentence and (2) that his retained counsel had not promised the petitioner that he would be permitted to enter the drug program and receive a reduction in time to be served, but only that he would request, at sentencing, a recommendation from the sentencing judge that the petitioner be permitted to participate in the drug program.

Based on those findings, the Court denies the petition for a writ of habeas corpus and the court will not issue a certificate of appealability.

Case DISMISSED.

IT IS SO ORDERED.

June 8, 2006
Date

/s/ David D. Dowd, Jr.
David D. Dowd, Jr.
U.S. District Judge